THE HONOURABLE SRI JUSTICE V.ESWARAIAH

W.P. No. 23462 of 2007

Date:06-11-2007

Between:

B.Lakshmi Narasimha Raju

...

Petitioner

AND

The Tahsildar, T.Narsapur

..

Respondent

-

ORDER:

The petitioner seeks a writ of mandamus to declare the order in R.O.C.No.40/2003 (B), dated 31.07.2007 passed by the respondent, as illegal and arbitrary.

It is the case of the petitioner that he purchased an extent of Ac.3.63 cents in R.s.no.7/1 of Kollivarigudem, T.Narsapur mandal, West Godavari District in public auction conducted by the District Cooperative Central Bank Ltd., Eluru. The said land was purchased from D.Ramachandra Raju who was the defaulter of the loan obtained by him from the Primary Agricultural Co-operative Society, Makkinavarigudem. The sale was also confirmed and the sale certificate has been issued by the Special Cadre Deputy Registrar/Officer on Special Duty, Co-operative Central Bank Ltd., Eluru on 01.02.1997.

It is stated that the said land is assigned land assigned in favour of D.Sri Ramachandra Raju who defaulted the payment of the loan taken by him from the society and accordingly notice is said to have been issued and resumption orders have been passed in Roc.No.40/2007(B), dated 31.07.2007. It is the case of the petitioner that under Section 6 of A.P. Assigned Lands (Prohibition of Transfers) Act, 1977 (for short 'the Act') there is no prohibition to mortgage the assigned land in favour of the Co-operative Society and accordingly the assignee mortgaged the said land in favour of the society and became defaulter and the bank auctioned the said property, the petitioner became the auction purchaser and the sale certificate was issued. It is further stated that the notice was not at all served on the

petitioner and accordingly orders have been passed under Section 4(1) of the Act.

A perusal of the impugned order does not indicate about the service of the notice on the petitioner and about the mortgage of the said assigned land and the sale by the Co-operative Society.

Having regard to the facts of the case, the writ petition is disposed of permitting the petitioner to file an appeal before the Revenue Divisional Officer, Eluru within two weeks from the date of receipt of a copy of this order. On filing such appeal by the petitioner, the appellate authority may consider and dispose of the same in accordance with law and pending disposal of the appeal, the petitioner shall not be dispossessed. No costs.

_____

V.ESWARAIAH, J.

Date:06.11.2007
ccm